

AMENDED IN SENATE APRIL 21, 2014

SENATE BILL

No. 1020

Introduced by Senator Monning

February 14, 2014

An act to ~~add Article 11.6. (commencing with Section 25243) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste amend Section 25150.6 of the Health and Safety Code, and to add Chapter 22 (commencing with Section 42995) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1020, as amended, Monning. ~~Hazardous-Recycling: hazardous waste: photovoltaic panels: collection and recycling programs.~~

(1) The Hazardous Waste Control Law, among other things, vests the Department of Toxic Substances Control with the authority to regulate the generation and disposal of hazardous waste. *Existing law authorizes the Department of Toxic Substances Control to exempt, by regulations adopted until January 1, 2008, a hazardous waste management activity from certain statutory requirements related to hazardous waste management if specified conditions for exemption are met, including that the regulations identify the waste as a universal waste.* A violation of the Hazardous Waste Control Law, including a regulation adopted pursuant to that law, is a crime.

~~This bill would enact the California Photovoltaic Panel Collection and Recycling Act of 2014 in the Hazardous Waste Control Law and would require photovoltaic panel manufacturers, individually or collectively, or with photovoltaic panel vendors, to establish a program for the collection and recycling of end-of-life photovoltaic panels that meets specified criteria. The bill would require the Department of Toxic~~

~~Substances Control to approve a program that meets those criteria and would prohibit a photovoltaic panel manufacturer that fails to establish an approved program from selling or offering for sale photovoltaic panels in the state, as specified. The bill would require the department to impose a reasonable annual administrative fee, as specified, and would provide for the deposit of the fees in the Photovoltaic Panel Collection Administration Account, which this bill would establish in the State Treasury. The bill would authorize the department to expend those fees, upon appropriation by the Legislature, to cover the department's costs to implement and enforce the bill's requirements, as specified.~~

~~The bill would require a contractor removing end-of-life photovoltaic panels and a person who demolishes a building having end-of-life photovoltaic panels to take the panels to an appropriate location for collection and recycling. The bill would require the bidder on state contracts for the purchase or lease of solar energy systems to certify that the photovoltaic panels used are purchased from a photovoltaic panel manufacturer in compliance with the above requirements.~~

~~Because a violation of the act would be a crime, this bill would impose a state-mandated local program.~~

~~*This bill would require a photovoltaic panel that is classified as hazardous waste solely because it exhibits the characteristic of toxicity to be considered a universal waste. The bill would require the department to adopt regulations by January 1, 2016, to allow photovoltaic panels to be managed as universal waste and would require the standards for the management of universal waste photovoltaic panels to be identical to the standards for the management of universal waste electronic devices, except as specified.*~~

~~*Because a violation of these regulations would be a crime, the bill would impose a state-mandated local program.*~~

~~*(2) Existing law requires a retailer of various specified products, such as rechargeable batteries and cell phones, sold in the state to have in place a system for the acceptance and collection of those products for reuse, recycling, or proper disposal.*~~

~~*This bill would establish the California Photovoltaic Panel Collection and Recycling Act of 2014, and would require a producer of photovoltaic panels, on or before July 1, 2016, to establish and operate a take-back program to provide for the collection, transportation, recovery, and recycling of end-of-life photovoltaic panels, or to participate as a member in a take-back program operated by, or on behalf of, 2 or more*~~

producers. The bill would allow a producer to enter an agreement with a business consumer to establish an alternative contractual arrangement with regard to the end-of-life photovoltaic panels that are sold by the producer to the business consumer.

The bill would require the Department of Resources Recycling and Recovery to adopt regulations, by January 1, 2016, to set reasonably achievable collection targets for take-back programs and to establish a high-value recycling rate and a bulk recycling rate that take-back programs would be required to meet. The bill would also require the department to set the amount of the fee that a consumer submitting an end-of-life historic or orphan photovoltaic panel, as defined, to a take-back program would be required to pay to the program, based upon the reasonable costs of the program to handle, transport, and recycle the end-of-life photovoltaic panel.

The bill would require the operator of a take-back program to submit to the department for approval a proposal to establish a take-back program containing specified elements no less than 60 days before beginning operation of the program. The operator would be required to submit an annual report to the department and pay an annual administrative fee to the department, which the department would be required to set at an amount to cover the department's reasonable costs of implementing and enforcing the act. The department would be required to deposit the fee revenues in the Photovoltaic Panel Collection Administration Fund, which the bill would establish in the State Treasury. The department would be authorized to expend the funds in the Photovoltaic Panel Collection Administration Fund, upon appropriation by the Legislature, to implement and enforce the act.

The bill would require a person that removes an end-of-life photovoltaic panel from a building or structure, other than the take-back program operator or the operator's employee, contractor, or representative, to contact the take-back program operator and follow all instructions received from the operator for participation in the take-back program. The bill would require a person removing an end-of-life historic or orphan photovoltaic panel to submit the photovoltaic panel to a take-back program and pay the fee established by the department.

The bill would provide for the imposition of civil penalties and administrative penalties upon a person who intentionally violates the act or a regulation adopted pursuant to the act, or who knowingly makes a false statement or representation in an application, record, report,

or other document filed, maintained, or used for purposes of compliance with the act. The department would be required to deposit the penalties in the Photovoltaic Panel Penalty Fund, which the bill would establish in the State Treasury. The bill would authorize the department to expend the funds in the Photovoltaic Panel Penalty Fund, upon appropriation by the Legislature, to implement and enforce the act.

(2)

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25150.6 of the Health and Safety Code
2 is amended to read:

3 25150.6. (a) Except as provided in subdivisions (e) and (f),
4 the department, by regulation, may exempt a hazardous waste
5 management activity from one or more of the requirements of this
6 chapter, if the department does all of the following:

7 (1) Prepares an analysis of the hazardous waste management
8 activity to which the exemption will apply pursuant to subdivision
9 (b). The department shall first prepare the analysis as a preliminary
10 analysis and make it available to the public at the same time that
11 the department gives notice, pursuant to Section 11346.4 of the
12 Government Code, that it proposes to adopt a regulation exempting
13 the hazardous waste management activity from one or more of the
14 requirements of this chapter. The department shall include, in the
15 notice, a reference that the department has prepared a preliminary
16 analysis and a statement concerning where a copy of the
17 preliminary analysis can be obtained. The information in the
18 preliminary analysis shall be updated and the department shall
19 make the analysis available to the public as a final analysis not
20 less than 10 working days prior to the date that the regulation is
21 adopted.

22 (2) Demonstrates that one of the conclusions required by
23 subdivision (c) is valid.

1 (3) Imposes, as may be necessary, conditions and limitations
2 on the exemption that ensure that the exempted activity will not
3 pose a significant potential hazard to human health or safety or to
4 the environment.

5 (b) Before the department gives notice of a proposal to adopt a
6 regulation exempting a hazardous waste management activity from
7 one or more of the requirements of this chapter pursuant to
8 subdivision (a), and before the department adopts the regulation,
9 the department shall evaluate the hazardous waste management
10 activity and prepare, as required by paragraph (1) of subdivision
11 (a), an analysis that addresses all of the following aspects of the
12 activity, to the extent that the requirement or requirements from
13 which the activity will be exempted can affect these aspects of the
14 activity:

15 (1) The types of hazardous waste streams and the estimated
16 amounts of hazardous waste that are managed as part of the activity
17 and the hazards to human health or safety or to the environment
18 posed by reasonably foreseeable mismanagement of those
19 hazardous wastes and their hazardous constituents. The estimate
20 of the amounts of hazardous waste that are managed as part of the
21 activity shall be based upon information reasonably available to
22 the department.

23 (2) The complexity of the activity, and the amount and
24 complexity of operator training, equipment installation and
25 maintenance, and monitoring that are required to ensure that the
26 activity is conducted in a manner that safely and effectively
27 manages the particular hazardous waste stream.

28 (3) The chemical or physical hazards that are associated with
29 the activity and the degree to which those hazards are similar to,
30 or differ from, the chemical or physical hazards that are associated
31 with the production processes that are carried out in the facilities
32 that produce the hazardous waste that is managed as part of the
33 activity.

34 (4) The types of accidents that might reasonably be foreseen to
35 occur during the management of particular types of hazardous
36 waste streams as part of the activity, the likely consequences of
37 those accidents, and the actual reasonably available accident history
38 associated with the activity.

39 (5) (A) The types of locations at which the activity may be
40 carried out, an estimate of the number of these locations, and the

- 1 types of hazards that may be posed by proximity to the *following*
2 ~~land uses described in subdivision (b) of Section 25232. uses:~~
- 3 (i) *A residence, including any mobilehome or factory built*
4 *housing constructed or installed for use as permanently occupied*
5 *human habitation.*
 - 6 (ii) *A hospital for humans.*
 - 7 (iii) *A school for persons under 21 years of age.*
 - 8 (iv) *A day care center for children.*
 - 9 (v) *Any permanently occupied human habitation other than*
10 *these used for industrial purposes.*
- 11 (B) The estimate of the number of locations at which the activity
12 may be carried out shall be based upon information reasonably
13 available to the department.
- 14 (c) The department shall not give notice proposing the adoption
15 of, and the department may not adopt, a regulation pursuant to
16 subdivision (a) unless it first demonstrates, using the information
17 developed in the analysis prepared pursuant to subdivision (b),
18 that one of the following is valid:
- 19 (1) The requirement from which the activity is exempted is not
20 significant or important in either of the following:
 - 21 (A) Preventing or mitigating potential hazards to human health
22 or safety or to the environment posed by the activity.
 - 23 (B) Ensuring that the activity is conducted in compliance with
24 other applicable requirements of this chapter and the regulations
25 adopted pursuant to this chapter.
 - 26 (2) A requirement is imposed and enforced by another public
27 agency that provides protection of human health and safety and
28 the environment that is as effective as, and equivalent to, the
29 protection provided by the requirement, or requirements, from
30 which the activity is being exempted.
 - 31 (3) Conditions or limitations imposed on the exemption will
32 provide protection of human health and safety and the environment
33 equivalent to the requirement, or requirements, from which the
34 activity is exempted.
 - 35 (4) Conditions or limitations imposed on the exemption
36 accomplish the same regulatory purpose as the requirement, or
37 requirements, from which the activity is being exempted but at
38 less cost or greater administrative convenience and without
39 increasing potential risks to human health or safety or to the
40 environment.

1 (d) A regulation adopted pursuant to this section shall not be
2 deemed to meet the standard of necessity, pursuant to Section
3 11349.1 of the Government Code, unless the department has
4 complied with subdivisions (b) and (c).

5 (e) The department shall not exempt a hazardous waste
6 management activity from a requirement of this chapter or the
7 regulations adopted by the department if the requirement is also a
8 requirement for that activity under the federal act.

9 (f) (1) ~~On~~ *Except as provided in subdivision (g), on* and after
10 January 1, 2002, the department may, by regulation, exempt a
11 hazardous waste management activity from one or more of the
12 requirements of this chapter pursuant to this section only if the
13 regulations govern the management of one of the hazardous wastes
14 listed in subparagraphs (A) to (E), inclusive, of paragraph (2), the
15 regulations identify the hazardous waste as a universal waste, and
16 the regulations amend the standards for universal waste
17 management set forth in Chapter 23 (commencing with Section
18 66273.1) of Division 4.5 of Title 22 of the California Code of
19 Regulations.

20 (2) The regulations that the department may adopt pursuant to
21 paragraph (1) shall govern only the following types of hazardous
22 waste:

23 (A) Electronic hazardous wastes, as the department may describe
24 in the regulations adopted pursuant to this subdivision.

25 (B) Hazardous waste batteries.

26 (C) Hazardous wastes containing mercury.

27 (D) Hazardous waste lamps.

28 (E) Lead-based painted debris that is a hazardous waste.

29 (g) (1) *For purposes of this subdivision, "photovoltaic panel"*
30 *has the same meaning as in Section 42995.2 of the Public*
31 *Resources Code.*

32 (2) *Notwithstanding subdivisions (f) and (h), to the extent not*
33 *inconsistent with the federal act, a photovoltaic panel that is*
34 *classified as hazardous waste under this chapter solely because*
35 *it exhibits the characteristic of toxicity shall be considered a*
36 *universal waste, as defined in Section 25123.8.*

37 (3) *On or before January 1, 2016, the department shall adopt*
38 *regulations to amend the standards for universal waste*
39 *management set forth in Chapter 23 (commencing with Section*
40 *66273.1) of Division 4.5 of Title 22 of the California Code of*

1 *Regulations, to allow for the management of photovoltaic panels*
2 *as universal waste. The department shall adopt standards for the*
3 *management of universal waste photovoltaic panels that are*
4 *identical to the standards for the management of universal waste*
5 *electronic devices that are in effect on January 1, 2015, except for*
6 *the following:*

7 (A) *The regulations shall not include requirements applicable*
8 *only to waste that is RCRA hazardous waste, including, but not*
9 *limited to, the United States Environmental Protection Agency*
10 *notification requirements and the requirement that the handler*
11 *obtain a federal ID number.*

12 (B) *The regulations shall not include provisions applicable only*
13 *to residual printed circuit boards, as specified in Chapter 23*
14 *(commencing with Section 66273.1) of Division 4.5 of Title 22 of*
15 *the California Code of Regulations.*

16 (C) *The regulations shall allow for the removal of photovoltaic*
17 *panel frames, junction boxes, wires, and cables, the disassembly*
18 *of photovoltaic panels into individual components, panels, or cells,*
19 *and the breakage of photovoltaic panels, if the broken panels are*
20 *contained in a manner that will prevent the release of hazardous*
21 *constituents to the environment under reasonably foreseeable*
22 *conditions. The regulations shall provide that the activities*
23 *specified in this subparagraph shall be regulated as disassembly*
24 *activities under Section 66273.72 of Title 22 of the California Code*
25 *of Regulations and not as treatment activities under Section*
26 *66273.73 of Title 22 of the California Code of Regulations.*

27 ~~(g)~~

28 (h) (1) *The authority of the department to adopt regulations*
29 *pursuant to this section shall remain in effect only until January*
30 *1, 2008, unless a later enacted statute, which is enacted before*
31 *January 1, 2008, deletes or extends that date. This subdivision does*
32 *not invalidate any regulation adopted pursuant to this section prior*
33 *to the expiration of the department's authority.*

34 (2) *This subdivision does not apply to a regulation adopted*
35 *pursuant to subdivision (g).*

36 *SEC. 2. Chapter 22 (commencing with Section 42995) is added*
37 *to Part 3 of Division 30 of the Public Resources Code, to read:*

1 *CHAPTER 22. CALIFORNIA PHOTOVOLTAIC PANEL COLLECTION*
2 *AND RECYCLING ACT OF 2014*

3
4 42995. This chapter shall be known, and may be cited, as the
5 *California Photovoltaic Panel Collection and Recycling Act of*
6 *2014.*

7 42995.1. (a) *The Legislature finds and declares all of the*
8 *following:*

9 (1) *California’s policies, including the policies reflected in the*
10 *California Solar Initiative (Chapter 8.8 (commencing with Section*
11 *25780) of Division 15), the state’s net energy metering program,*
12 *and the California Renewable Portfolio Standard Program (Article*
13 *16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of*
14 *Division 1 of the Public Utilities Code), have made California the*
15 *leading state in the installation of solar energy systems by*
16 *providing ratepayer-funded incentives to eligible solar energy*
17 *systems, resulting in substantially increased utilization by homes,*
18 *businesses, and utilities.*

19 (2) *Existing solar energy systems use photovoltaic technology*
20 *to capture sunlight and convert it into electricity until the end of*
21 *their useful lives, estimated to be between 25 and 40 years. Today*
22 *a wide variety of solar photovoltaic technologies, manufactured*
23 *using processes and materials similar to those of the*
24 *microelectronics industry, contribute to California’s solar energy*
25 *portfolio.*

26 (3) *The numerous renewable and customer-generated solar*
27 *programs in California have led to a rapid expansion of solar*
28 *energy systems and have given rise to an emerging photovoltaic*
29 *industry. An increasing amount of end-of-life photovoltaic panels*
30 *can be expected from 2020 onwards in California. It is critical to*
31 *consider the end-of-life issues associated with photovoltaic panels.*
32 *Recycling is the most sustainable way to manage end-of-life*
33 *photovoltaic panels.*

34 (b) *It is the intent of the Legislature to do all of the following:*

35 (1) *Foster a comprehensive and innovative system for the reuse,*
36 *recycling, and proper and legal disposal of end-of-life photovoltaic*
37 *panels.*

38 (2) *Establish a program that makes it convenient for consumers*
39 *and the public to return and recycle photovoltaic panels, and*

1 ensures the efficient, environmentally safe disposition of end-of-life
2 photovoltaic panels.

3 (3) Reduce the likelihood of improper disposal and ensure that
4 the cost associated with the handling, recycling, and disposition
5 of end-of-life photovoltaic panels shall be the responsibility of the
6 photovoltaic panel producers and consumers, and not local
7 governments or their service providers, state government, or
8 taxpayers.

9 (4) Provide flexibility to photovoltaic panel producers to partner
10 with each other and with those private and nonprofit business
11 enterprises that currently provide collection and processing
12 services to develop and promote a safe and effective end-of-life
13 photovoltaic panel recycling system for California.

14 (5) Provide for the collection and recycling of the maximum
15 feasible number of end-of-life photovoltaic panels.

16 (6) Ensure that semiconductor materials and other metal
17 constituents of photovoltaic panels are recovered from photovoltaic
18 panels at the end of life.

19 (7) Encourage photovoltaic panel producers to establish a
20 cost-effective system for the recovery, reuse, recycling, and proper
21 disposal of end-of-life photovoltaic panels, and build on and
22 reward early action to create existing photovoltaic panel take-back
23 and recycling programs.

24 (c) It is further the intent of the Legislature that photovoltaic
25 panels, to the greatest extent feasible, should be designed for
26 extended life, repair, and reuse, and that collection and recycling
27 services should be provided for the maximum feasible number of
28 end-of-life photovoltaic panels.

29 42995.2. For the purposes of the chapter, the following
30 definitions shall apply:

31 (a) “Bulk recycling” means recycling targeted at the recovery
32 of a certain percentage of the total mass of a photovoltaic panel
33 and that does not differentiate between high-value and low-value
34 constituents.

35 (b) “Business consumer” means a business, corporation, limited
36 partnership, nonprofit organization, or governmental entity that
37 purchases or owns photovoltaic panels in a quantity larger than
38 those typically possessed by a household consumer.

39 (c) “Consumer” means a purchaser or owner of a photovoltaic
40 panel in the state.

1 (d) “Department” means the Department of Resources
2 Recycling and Recovery.

3 (e) “End-of-life photovoltaic panel” means a photovoltaic panel
4 that has been used and is removed from service in this state and
5 is intended to be discarded or recycled. A photovoltaic panel that
6 is designated for refurbishment or reuse is not an end-of-life
7 photovoltaic panel.

8 (f) “High-value recycling” means recycling targeted at the
9 recovery of a significant percentage of metals and semiconductor
10 materials from a photovoltaic panel.

11 (g) “Historic photovoltaic panel” means a photovoltaic panel
12 placed on the market by a producer before January 1, 2015.

13 (h) “Household consumer” means both of the following:

14 (1) A household, as defined in Section 25218.1 of the Health
15 and Safety Code, that purchases or owns a photovoltaic panel in
16 the state.

17 (2) The purchaser or owner of a photovoltaic panel that does
18 not meet the definition of a household specified in paragraph (1),
19 but purchases or owns photovoltaic panels in a limited quantities
20 that is equivalent to the amount of photovoltaic panels that a
21 household otherwise purchases or owns.

22 (i) (1) “Photovoltaic panel producer” or “producer” means
23 a person, business, corporation, limited partnership, nonprofit
24 organization, or governmental entity that, irrespective of the selling
25 technique used, sells photovoltaic panels in this state or places
26 photovoltaic panels on the market because it does one of the
27 following:

28 (A) Manufactures photovoltaic panels within the state under its
29 own name or trademark, or has photovoltaic panels designed or
30 manufactured in the state, and markets the photovoltaic panels in
31 the state under its own name.

32 (B) Resells photovoltaic panels within the state that were
33 produced within the state by another entity under the reseller’s
34 own name.

35 (C) Imports into the state photovoltaic panels manufactured
36 outside of the state for the purpose of sale within the state.

37 (D) Sells photovoltaic panels directly into the state or solely by
38 means of distance communication, including telephone or internet
39 sales, to consumers in the state.

1 (2) *Notwithstanding subparagraph (B) of paragraph (1), a*
2 *person, business, corporation, limited partnership, nonprofit*
3 *organization, or governmental entity is not a producer if the brand*
4 *of a producer which is not that person, business, corporation,*
5 *limited partnership, nonprofit organization, or governmental entity*
6 *appears on the photovoltaic panels resold by that entity.*

7 (j) *“Photovoltaic panel” means a device having the primary*
8 *purpose of providing nonthermal generation of electricity from*
9 *solar energy.*

10 (k) *“Orphan photovoltaic panel” means a photovoltaic panel*
11 *sold to a consumer that, at the end of life, is not managed by the*
12 *producer of that photovoltaic panel because the producer no longer*
13 *exists or because the producer does not otherwise operate or*
14 *participate in a take-back program.*

15 (l) *“Take-back program” means a system for the collection,*
16 *transportation, recovery, and environmentally sound recycling of*
17 *end-of-life photovoltaic panels.*

18 (m) *“Take-back program operator” or “operator” means an*
19 *individual producer or a group or organization of producers that*
20 *manages a take-back program.*

21 42995.3. (a) *On or before July 1, 2016, a producer shall*
22 *establish and operate a take-back program or shall participate as*
23 *a member in a take-back program established and operated by,*
24 *or on behalf of, two or more producers.*

25 (b) *A take-back program established pursuant to this chapter*
26 *shall provide for the collection, transportation, recovery, and*
27 *environmentally sound recycling of end-of-life photovoltaic panels*
28 *that are put on the market on and after January 1, 2015, by the*
29 *producer participating in the take-back program pursuant to*
30 *subdivision (a), and for end-of-life historic photovoltaic panels*
31 *and end-of-life orphan photovoltaic panels, upon payment of the*
32 *fee specified in Section 42995.4.*

33 (c) (1) *A producer may enter an agreement with a business*
34 *consumer to establish an alternative contractual arrangement to*
35 *finance the costs of the collection, transportation, recovery, and*
36 *environmentally sound recycling of the end-of-life photovoltaic*
37 *panels that are sold by the producer to the business consumer. An*
38 *agreement entered into pursuant to this subdivision shall require*
39 *the photovoltaic panels managed pursuant to the alternative*
40 *contractual arrangement to meet the photovoltaic panel collection*

1 *and recycling targets established pursuant to subdivisions (a) and*
2 *(b) of Section 42995.4.*

3 *(2) If a producer enters into an agreement pursuant to this*
4 *subdivision, any photovoltaic panels sold by the producer that are*
5 *not subject to the alternative contractual arrangement shall be*
6 *included in a take-back program established pursuant to*
7 *subdivision (a).*

8 *42995.4. The department may adopt regulations to implement*
9 *this chapter. On or before January 1, 2016, the department shall*
10 *adopt regulations that do all of the following:*

11 *(a) Set reasonably achievable collection targets for take-back*
12 *programs, on a graduated basis, taking into account cost and the*
13 *technical feasibility.*

14 *(b) Establish a high-value recycling rate of not less than 80*
15 *percent and a bulk recycling rate of not less than 75 percent for*
16 *all end-of-life photovoltaic panels collected pursuant to a program,*
17 *taking into account cost and technical feasibility.*

18 *(c) Set the amount of the fee that a consumer submitting an*
19 *end-of-life historic photovoltaic panel or an end-of-life orphan*
20 *photovoltaic panel to a take-back program shall pay to the*
21 *program, based upon the reasonable costs of the program to*
22 *handle, transport, and recycle the end-of-life photovoltaic panel.*

23 *42995.5. An operator of a take-back program shall submit to*
24 *the department a proposal to establish a take-back program that*
25 *would take all of the following actions:*

26 *(a) Collect end-of-life photovoltaic panels at the rate established*
27 *by the department pursuant to subdivision (a) of Section 42295.4.*
28 *The take-back program operator shall undertake the educational*
29 *and outreach efforts necessary to achieve the established collection*
30 *rates.*

31 *(b) Meet the recovery rates for high-value recycling and bulk*
32 *recycling of photovoltaic panels established by the department*
33 *pursuant to subdivision (b) of Section 42995.4. The take-back*
34 *program operator shall utilize recycling technologies capable of*
35 *meeting the recycling rates established by the department.*

36 *(c) Affix a label to each photovoltaic panel sold by the producers*
37 *participating in the program. The label shall enable the consumer*
38 *to easily contact the take-back program operator at end-of-life,*
39 *by including the name of the take-back program operator, relevant*
40 *handling instructions, and contact information including, but not*

1 *limited to, a toll-free number, an Internet Web address, or an email*
2 *address.*

3 *(d) Provide for one or more of the following:*

4 *(1) The direct pickup of end-of-life photovoltaic panels from*
5 *the installation location.*

6 *(2) The free shipping of photovoltaic panels to the operator.*

7 *(3) The operation of locations for consumers to drop off*
8 *end-of-life photovoltaic panels.*

9 *(e) Handle and transport photovoltaic panels in a manner*
10 *consistent with all local, state, and federal requirements.*

11 *(f) Notify a consumer of the requirements of Section 42995.9,*
12 *if the consumer removes a photovoltaic panel and does not intend*
13 *to reuse, sell for reuse by another, or refurbish the photovoltaic*
14 *panel.*

15 *(g) Accept end-of-life historic and orphan photovoltaic panels,*
16 *pursuant to one or more of the means specified in subdivision (d),*
17 *from a consumer who pays the program the amount of the fee*
18 *established by the department pursuant to subdivision (c) of Section*
19 *42295.4.*

20 *42995.6. (a) A take-back program operator shall submit the*
21 *take-back program proposal to the department for approval no*
22 *less than 60 days before beginning operation of the program. The*
23 *department shall approve a take-back program if it meets the*
24 *requirements of Section 42995.5.*

25 *(b) If the department takes no action to approve or reject a*
26 *program proposal within 60 days of its submittal, the program*
27 *shall be deemed to be an approved program.*

28 *42995.7. On or before April 1, 2017, and on or before April 1*
29 *annually thereafter, each take-back program operator shall submit*
30 *a report to the department covering the one-year period ending*
31 *December 31 of the previous calendar year. The annual report*
32 *shall include all of the following:*

33 *(a) The volume by weight of photovoltaic panels marketed for*
34 *sale by producers participating in the take-back program that were*
35 *installed by consumers in the past calendar year. If the operator*
36 *enters into an alternative contractual arrangement pursuant to*
37 *subdivision (c) of Section 42995.3 with a business consumer, the*
38 *operator shall include the volume by weight of the photovoltaic*
39 *panels that are sold to the business consumer subject to that*
40 *agreement.*

1 (b) *The volume by weight of end-of-life photovoltaic panels*
2 *collected under the take-back program during the previous*
3 *calendar year, including the quantity of historic photovoltaic*
4 *panels and orphan photovoltaic panels collected by the program.*

5 (c) *Information regarding the collection rate and recycling rates*
6 *achieved by the take-back program and under any alternative*
7 *contractual arrangement entered into pursuant to subdivision (c)*
8 *of Section 42995.3.*

9 (d) *Contact information for all collection locations operated as*
10 *part of the take-back program.*

11 (e) *If the take-back program fails to meet the collection or*
12 *recycling rates established by the department pursuant to Section*
13 *42995.4, a summary of the actions the operator plans to take in*
14 *the upcoming calendar year to achieve those rates.*

15 42995.8. (a) *The department shall establish an annual*
16 *administrative fee to be paid by the operator of a take-back*
17 *program, which shall be set at an amount to cover the reasonable*
18 *costs of implementing and enforcing this chapter.*

19 (b) *An operator shall pay an annual administrative fee to the*
20 *department. The department shall deposit the fee revenues in the*
21 *Photovoltaic Panel Collection Administration Fund, which is*
22 *hereby established in the State Treasury, the moneys in which may*
23 *be expended by the department, upon appropriation by the*
24 *Legislature, to implement and enforce this chapter.*

25 42995.9. (a) *A person that removes an end-of-life photovoltaic*
26 *panel from a building or structure, other than a take-back program*
27 *operator or the operator's employee, contractor, or representative,*
28 *shall contact the take-back program operator using the contact*
29 *information on the panel's label and shall follow the instructions*
30 *received from the operator for participation in the take-back*
31 *program.*

32 (b) *A person removing an end-of life historic photovoltaic panel*
33 *or orphan photovoltaic panel shall submit the photovoltaic panel*
34 *to an existing take-back program and pay the program the fee*
35 *established by the department.*

36 42995.10. (a) *A person who does any of the following shall*
37 *be liable for a civil penalty not to exceed two thousand five hundred*
38 *dollars (\$2,500) for each violation or, for continuing violations,*
39 *for each day that violation continues, not to exceed a total of two*
40 *hundred fifty thousand dollars (\$250,000) for all violations:*

1 (1) *Intentionally violates the requirements of this chapter or a*
2 *regulation adopted pursuant to this chapter.*

3 (2) *Knowingly makes any false statement or representation in*
4 *any application, record, report, or other document filed,*
5 *maintained, or used for purposes of compliance with this chapter.*

6 (b) *In any action brought pursuant to subdivision (a), the*
7 *department may seek injunctive relief in addition to civil penalties.*

8 (c) (1) *As an alternative to a civil penalty pursuant to*
9 *subdivision (a), the department may impose an administrative*
10 *penalty in an amount not to exceed one thousand dollars (\$1,000)*
11 *for each intentional violation of this chapter, or a regulation*
12 *adopted pursuant to this chapter, or, for continuing violations, for*
13 *each day that violation continues, not to exceed a total of fifty*
14 *thousand dollars (\$50,000) for all violations, and shall submit a*
15 *notice of the proposed penalty to the person subject to the penalty.*

16 (2) *A person assessed an administrative penalty may request*
17 *the department to reconsider the penalty within 30 days of*
18 *receiving notice of the proposed penalty. Upon receiving a request*
19 *for reconsideration, the department shall, within 45 days, review*
20 *the administrative penalty and issue a written decision. If the*
21 *department upholds the administrative penalty, the person assessed*
22 *that penalty may appeal the department's determination in an*
23 *action brought in the superior court, where the court shall consider*
24 *the issue de novo.*

25 (d) *The department shall deposit all penalties collected pursuant*
26 *to this section in the Photovoltaic Panel Penalty Fund, which is*
27 *hereby established in the State Treasury. The department may*
28 *expend the funds in the Photovoltaic Panel Penalty Fund, upon*
29 *appropriation by the Legislature, to implement and enforce this*
30 *chapter.*

31 SEC. 3. *No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *the only costs that may be incurred by a local agency or school*
34 *district will be incurred because this act creates a new crime or*
35 *infraction, eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section 17556 of*
37 *the Government Code, or changes the definition of a crime within*
38 *the meaning of Section 6 of Article XIII B of the California*
39 *Constitution.*

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, February 14, 2014. (JR11)**

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